

108TH CONGRESS  
2D SESSION

# S. 2279

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## AN ACT

To amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Maritime Transportation Security Act of 2004”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents
- Sec. 2. Enforcement; pier and wharf security costs.
- Sec. 3. Security at foreign ports.
- Sec. 4. Federal and State commercial maritime transportation training.
- Sec. 5. Transportation worker background investigation programs.
- Sec. 6. Report on cruise ship security.
- Sec. 7. Maritime transportation security plan grants.
- Sec. 8. Report on design of maritime security grant programs.

3 **SEC. 2. ENFORCEMENT; PIER AND WHARF SECURITY**  
 4 **COSTS.**

5 (a) IN GENERAL.—Chapter 701 of title 46, United  
 6 States Code, is amended—

7 (1) by redesignating the second section 70118  
 8 (relating to firearms, arrests, and seizure of prop-  
 9 erty), as added by section 801(a) of the Coast Guard  
 10 and Maritime Transportation Act of 2004, as sec-  
 11 tion 70119;

12 (2) by redesignating the first section 70119 (re-  
 13 lating to enforcement by State and local officers), as  
 14 added by section 801(a) of the Coast Guard and  
 15 Maritime Transportation Act of 2004, as section  
 16 70120;

17 (3) by redesignating the second section 70119  
 18 (relating to civil penalty), as redesignated by section  
 19 802(a)(1) of the Coast Guard and Maritime Trans-  
 20 portation Act of 2004, as section 70123; and

1 (4) by inserting after section 70120 the fol-  
 2 lowing:

3 **“§ 70121. Enforcement by injunction or withholding**  
 4 **of clearance**

5 “(a) INJUNCTION.—The United States district courts  
 6 shall have jurisdiction to restrain violations of this chapter  
 7 or of regulations issued hereunder, for cause shown.

8 “(b) WITHHOLDING OF CLEARANCE.—

9 “(1) If any owner, agent, master, officer, or  
 10 person in charge of a vessel is liable for a penalty  
 11 or fine under section 70119, or if reasonable cause  
 12 exists to believe that the owner, agent, master, offi-  
 13 cer, or person in charge may be subject to a penalty  
 14 under section 70119, the Secretary may, with re-  
 15 spect to such vessel, refuse or revoke any clearance  
 16 required by section 4197 of the Revised Statutes of  
 17 the United States (46 U.S.C. App. 91).

18 “(2) Clearance refused or revoked under this  
 19 subsection may be granted upon filing of a bond or  
 20 other surety satisfactory to the Secretary.

21 **“§ 70122. Security of piers and wharfs**

22 “(a) IN GENERAL.—Notwithstanding any other pro-  
 23 vision of law, the Secretary shall require any uncleared,  
 24 imported merchandise remaining on the wharf or pier onto  
 25 which it was unladen for more than 7 calendar days, not

1 including any time the imported merchandise was held in  
 2 federal custody, to be removed from the wharf or pier and  
 3 deposited in the public stores or a general order ware-  
 4 house, where it shall be inspected for determination of con-  
 5 tents, and thereafter a permit for its delivery may be  
 6 granted.

7 “(b) PENALTY.—The Secretary may impose an ad-  
 8 ministrative penalty of \$5,000 on the consignee for each  
 9 bill of lading for general order merchandise remaining on  
 10 a wharf or pier in violation of subsection (a), except that  
 11 no penalty shall be imposed if the violation was a result  
 12 of force majeure.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The chapter analysis for chapter 701 of title  
 15 46, United States Code, is amended by striking the  
 16 items following the item relating to section 70116  
 17 and inserting the following:

“70117. In rem liability for civil penalties and certain costs  
 “70118. Withholding of clearance  
 “70119. Firearms, arrests, and seizure of property  
 “70120. Enforcement by State and local officers  
 “70121. Enforcement by injunction or withholding of clearance  
 “70122. Security of piers and wharfs  
 “70123. Civil penalty”.

18 (2) Section 70117(a) of title 46, United States  
 19 Code, is amended by striking “section 70120” and  
 20 inserting “section 70123”.

1           (3) Section 70118(a) of such title is amended  
2       by striking “under section 70120,” and inserting  
3       “under that section.”.

4   **SEC. 3. SECURITY AT FOREIGN PORTS.**

5       (a) IN GENERAL.—Section 70109 of title 46, United  
6 States Code, is amended—

7           (1) by striking “The Secretary,” in subsection  
8       (b) and inserting “The Administrator of the Mari-  
9       time Administration,”; and

10          (2) by adding at the end the following:

11       “(c) FOREIGN ASSISTANCE PROGRAMS.—The Ad-  
12 ministrator of the Maritime Administration, in coordina-  
13 tion with the Secretary of State, shall identify foreign as-  
14 sistance programs that could facilitate implementation of  
15 port security antiterrorism measures in foreign countries.  
16 The Administrator and the Secretary shall establish a pro-  
17 gram to utilize those programs that are capable of imple-  
18 menting port security antiterrorism measures at ports in  
19 foreign countries that the Secretary finds, under section  
20 70108, to lack effective antiterrorism measures.”.

21       (b) REPORT ON SECURITY AT PORTS IN THE CARIB-  
22 BEAN BASIN.—Not later than 60 days after the date of  
23 enactment of this Act, the Secretary of Homeland Security  
24 shall submit to the Committee on Commerce, Science, and  
25 Transportation of the Senate and Committee on Trans-

1 portation and Infrastructure of the House of Representa-  
 2 tives a report on the security of ports in the Caribbean  
 3 Basin. The report shall include the following:

4 (1) An assessment of the effectiveness of the  
 5 measures employed to improve security at ports in  
 6 the Caribbean Basin and recommendations for any  
 7 additional measures to improve such security.

8 (2) An estimate of the number of ports in the  
 9 Caribbean Basin that will not be secured by July  
 10 2004, and an estimate of the financial impact in the  
 11 United States of any action taken pursuant to sec-  
 12 tion 70110 of title 46, United States Code, that af-  
 13 fects trade between such ports and the United  
 14 States.

15 (3) An assessment of the additional resources  
 16 and program changes that are necessary to maxi-  
 17 mize security at ports in the Caribbean Basin.

18 **SEC. 4. FEDERAL AND STATE COMMERCIAL MARITIME**  
 19 **TRANSPORTATION TRAINING.**

20 Section 109 of the Maritime Transportation Security  
 21 Act of 2002 (46 U.S.C. 70101 note) is amended—

22 (1) by redesignating subsections (c) through (f)  
 23 as subsections (d) through (g), respectively; and

24 (2) by inserting after subsection (b) the fol-  
 25 lowing:

1       “(c) FEDERAL AND STATE COMMERCIAL MARITIME  
2       TRANSPORTATION TRAINING.—The Secretary of Trans-  
3       portation shall establish a curriculum, to be incorporated  
4       into the curriculum developed under subsection (a)(1), to  
5       educate and instruct Federal and State officials on com-  
6       mercial maritime and intermodal transportation. The cur-  
7       riculum shall be designed to familiarize those officials with  
8       commercial maritime transportation in order to facilitate  
9       performance of their commercial maritime and intermodal  
10      transportation security responsibilities. In developing the  
11      standards for the curriculum, the Secretary shall consult  
12      with each agency in the Department of Homeland Security  
13      with maritime security responsibilities to determine areas  
14      of educational need. The Secretary shall also coordinate  
15      with the Federal Law Enforcement Training Center in the  
16      development of the curriculum and the provision of train-  
17      ing opportunities for Federal and State law enforcement  
18      officials at appropriate law enforcement training facili-  
19      ties.”.

20      **SEC. 5. TRANSPORTATION WORKER BACKGROUND INVES-**  
21                                   **TIGATION PROGRAMS.**

22      Within 120 days after the date of enactment of this  
23      Act, the Secretary of Homeland Security, after consulta-  
24      tion with the Secretary of Transportation, shall transmit  
25      a report to the Senate Committee on Commerce, Science,

1 and Transportation and the House of Representatives  
 2 Committee on Transportation and Infrastructure—

3           (1) making recommendations (including legisla-  
 4           tive recommendations, if appropriate or necessary)  
 5           for harmonizing, combining, or coordinating require-  
 6           ments, procedures, and programs for conducting  
 7           background checks under section 70105 of title 46,  
 8           United States Code, section 5103a(c) of title 49,  
 9           United States Code, section 44936 of title 49,  
 10          United States Code, and other provisions of Federal  
 11          law or regulations requiring background checks for  
 12          individuals engaged in transportation or transpor-  
 13          tation-related activities;

14          (2) setting forth a detailed timeline for imple-  
 15          mentation of such harmonization, combination, or  
 16          coordination;

17          (3) setting forth a plan with a detailed timeline  
 18          for the implementation of the Transportation Work-  
 19          er Identification Credential in seaports;

20          (4) making recommendations for a waiver and  
 21          appeals process for issuing a transportation security  
 22          card to an individual found otherwise ineligible for  
 23          such a card under section 70105(c)(2) and (3) of  
 24          title 46, United States Code, along with rec-



1       ommendations on the appropriate level of funding  
2       for such a process; and

3               (5) making recommendations for how informa-  
4       tion collected through the Transportation Worker  
5       Identification Credential program may be shared  
6       with port officials, terminal operators, and other of-  
7       ficials responsible for maintaining access control  
8       while also protecting workers' privacy.

9   **SEC. 6. REPORT ON CRUISE SHIP SECURITY.**

10       (a) IN GENERAL.—Not later than 120 days after the  
11       date of enactment of this Act, the Secretary of Homeland  
12       Security shall submit to the Senate Committee on Com-  
13       merce, Science, and Transportation and the House of Rep-  
14       resentatives Committee on Transportation and Infrastruc-  
15       ture a report on the security of ships and facilities used  
16       in the cruise line industry.

17       (b) CONTENT.—The report required by subsection  
18       (a) shall include an assessment of security measures em-  
19       ployed by the cruise line industry, including the following:

20               (1) An assessment of the security of cruise  
21       ships that originate at ports in foreign countries.

22               (2) An assessment of the security of ports uti-  
23       lized for cruise ship docking.

24               (3) The costs incurred by the cruise line indus-  
25       try to carry out the measures required by the Mari-

1 time Transportation Security Act of 2002 (Public  
2 Law 107–295; 116 Stat. 2064) and the amendments  
3 made by that Act.

4 (4) The costs of employing canine units and  
5 hand-held explosive detection wands at ports, includ-  
6 ing the costs of screening passengers and baggage  
7 with such methods.

8 (5) An assessment of security measures taken  
9 by the Secretary of Homeland Security to increase  
10 the security of the cruise line industry and the costs  
11 incurred to carry out such security measures.

12 (6) A description of the need for and the feasi-  
13 bility of deploying explosive detection systems and  
14 canine units at ports used by cruise ships and an as-  
15 sessment of the cost of such deployment.

16 (7) A summary of the fees paid by passengers  
17 of cruise ships that are used for inspections and the  
18 feasibility of creating a dedicated passenger vessel  
19 security fund from such fees.

20 (8) The recommendations of the Secretary, if  
21 any, for measures that should be carried out to im-  
22 prove security of cruise ships that originate at ports  
23 in foreign countries.

24 (9) The recommendations of the Secretary, if  
25 any, on the deployment of further measures to im-

1       prove the security of cruise ships, including explosive  
2       detection systems, canine units, and the use of tech-  
3       nology to improve baggage screening, and an assess-  
4       ment of the cost of implementing such measures.

5   **SEC. 7. MARITIME TRANSPORTATION SECURITY PLAN**  
6                   **GRANTS.**

7       Section 70107(a) of title 46, United States Code, is  
8   amended to read as follows:

9       “(a) IN GENERAL.—The Under Secretary of Home-  
10   land Security for Border and Transportation Security  
11   shall establish a grant program for making a fair and eq-  
12   uitable allocation of funds to implement Area Maritime  
13   Transportation Security Plans and to help fund compli-  
14   ance with Federal security plans among port authorities,  
15   facility operators, and State and local agencies required  
16   to provide security services. Grants shall be made on the  
17   basis of threat-based risk assessments subject to review  
18   and comment by the appropriate Federal Maritime Secu-  
19   rity Coordinators and the Maritime Administration. The  
20   grant program shall take into account national security  
21   priorities, national economic, and strategic defense con-  
22   cerns and shall be coordinated with the Director of the  
23   Office of Domestic Preparedness to ensure that the grant  
24   process is consistent with other Department of Homeland  
25   Security grant programs.”.

1 **SEC. 8. REPORT ON DESIGN OF MARITIME SECURITY**  
2 **GRANT PROGRAMS.**

3 Within 90 days after the date of enactment of this  
4 Act, the Secretary of Homeland Security shall transmit  
5 a report to the Senate Committee on Commerce, Science,  
6 and Transportation and the House of Representatives  
7 Committee on Transportation and Infrastructure on the  
8 design of maritime security grant programs that includes  
9 recommendations on—

10 (1) whether the grant programs should be dis-  
11 cretionary or formula based and why;

12 (2) requirements for ensuring that Federal  
13 funds will not be substituted for grantee funds;

14 (3) targeting requirements to ensure that fund-  
15 ing is directed in a manner that reflects a national,  
16 risk-based perspective on priority needs, the fiscal  
17 capacity of recipients to fund the improvements  
18 without grant funds, and an explicit analysis of the  
19 impact of minimum funding to small ports that  
20 could affect funding available for the most strategic  
21 or economically important ports; and

22 (4) matching requirements to ensure that Fed-  
23 eral funds provide an incentive to grantees for the

- 1 investment of their own funds in the improvements
- 2 financed in part by Federal funds.

Passed the Senate September 21, 2004.

Attest:

*Secretary.*

108TH CONGRESS  
2D SESSION

# S. 2279

## AN ACT

To amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.